O.T. 1930 ORIGINAL NOS. 6, 10 & 11,

Office Supreme Court, U.
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APR 15 1929
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In the Supreme Court of the United States

OCTOBER TERM, A. D. 1928.

STATE OF WISCONSIN, STATE OF MINNESOTA, STATE OF OHIO, AND STATE OF PENNSYLVANIA,
Complainants,
vs.
STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO,
Defendants.
No. 7, Original.

STATE OF MISSOURI, STATE OF KENTUCKY, STATE OF TENNESSEE, STATE OF LOUISIANA, STATE OF MISSISSIPPI, AND STATE OF ARKANSAS,
Intervening Defendants.

STATE OF MICHIGAN,
Complainant,
vs.
STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO,
Defendants.
No. 11, Original.

STATE OF NEW YORK,
Complainant,
vs.
STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO,
Defendants.
No. 12, Original.

BRIEF OF THE COMPLAINANT STATES IN OPPOSITION TO THE MOTION FILED BY THE CITY OF CHICAGO FOR LEAVE TO INTERVENE AS DEFENDANT AND TO FILE INTERVENING PETITION.

In the Supreme Court of the United States

OCTOBER TERM, A. D. 1928.

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The complainant States in the above entitled actions respectfully ask the Court to overrule and disallow the

motion of the City of Chicago filed April 15, 1929, for leave to become a party defendant herein, to file an intervening petition herein, and to participate in the hearings of the Special Master upon the re-reference order of January 15, 1929.

An inspection of the petition which the City of Chicago asks leave to file shows that the City of Chicago admits that it has been aware of these proceedings from their inception. To permit it to intervene at this time would necessarily greatly delay the relief which this Court has decreed these complainant States entitled to have.

Furthermore, the City of Chicago by its proposed petition seeks to present evidence upon the following questions:

(1) The physical situation of the City of Chicago with reference to Lake Michigan, the Chicago River, the so-called Sanitary Drainage Canal and the Des Plaines River. This physical situation is exhaustively covered in the record, taken before the Special Master, now before the Court.

(2) The extent and character of the water supply of the City of Chicago and the steps necessary to be taken to protect it, in the event that the decree of this Court requires a discontinuance of the diversion of water from Lake Michigan and the City of Chicago and the Sanitary District continue to pollute the Chicago River and the waters of the Chicago Harbor. This subject is fully covered in the record, taken by the Special Master, now before the Court.

(3) The character of the present sewer system of the City of Chicago, the possibility of its reconstruction to cause a separation of sanitary and storm water sewage, also the relation of Chicago, its public parks, bathing beaches and other public undertakings and of the public utilities of the City of Chicago to the waters of Lake Michigan and the waters of the Chicago River, and the effect upon these various public and private utilities of the discontinuance of the diversion of the waters of Lake Michigan which this Court has decreed.

All of these subjects are fully covered by testimony, taken by the Special Master, in the record now before the Court.

(4) The financial burden which would be imposed upon the City of Chicago by the necessity of reconstructing its water supply, and the installation of filtration plants. This subject is fully covered by testimony, taken by the Special Master, and is in the record now before the Court.

These complainant States, therefore, say that to permit the City of Chicago, as a new defendant in these proceedings, to attempt to re-examine questions already determined by this Court upon full examination by the Special Master, would indefinitely prolong the hearings and correspondingly delay the molding of the decree which this Court has directed, to bring about as rapidly as is practicable the discontinuance of the unlawful diversion of the waters of Lake Michigan and the restoration of the rights of these complainants.

These complainant States further say that under the decision of this Court, the matters sought to be set up in the petition by the City of Chicago are irrelevant and immaterial. None of them have to do with navigation except as they seek to make an excuse for continuing diversion for sanitary purposes. Even if it be conceded that the financial outlay which the City of Chicago would be required to make is great, this Court has held in this case that these complainants have a right to require a discontinuance of the diversion, except to the extent that the Court, upon this special re-reference, shall determine to be necessary for the maintenance of navigation in the Chicago River, which can not mean that Chicago is to be permitted to increase the quantity of diversion so necessary, by first continuing to render the Chicago River unnavigable by the continuous creation of nuisances therein.

For the reasons, therefore, that,

(1) This motion is too late in these proceedings to be equitably entitled to be considered;

(2) The record now before the Court, and the evidence already taken by the Special Master on the rereference, show that the City of Chicago is in default by its gross and defiant failure to comply with the requirement, imposed by the Secretary of War, as a condition of the permit issued in 1925, in the matter of the installation of water meters upon its public and domestic water supply;

(3) That the matters sought to be set up are irrelevant and immaterial; and

(4) That all the matters sought to be urged by the City of Chicago have been fully and exhaustively presented by the State of Illinois and the Sanitary District, and have been ruled adversely to the State of Illinois and the Sanitary District and, therefore, to the City of Chicago, a subordinate political agency of that State, by this Court, on its consideration of the existing record;

these complainants respectfully urge that this motion be denied and overruled.

Respectfully submitted,

STATE OF WISCONSIN,
By JOHN W. REYNOLDS, *Attorney General.*

STATE OF MINNESOTA,
By G. A. YOUNGQUIST, *Attorney General.*

STATE OF OHIO,
By GILBERT BETTMAN, *Attorney General.*

STATE OF PENNSYLVANIA,
By CYRUS E. WOODS, *Attorney General.*

STATE OF MICHIGAN,
By WILBUR M. BRUCKER, *Attorney General.*

STATE OF NEW YORK,
By HAMILTON WARD, *Attorney General.*